

## PROPOSED CHANGES TO BOARD ELECTION REGULATIONS

### California Code of Regulations Regulations Relating to the Board Election Process Title 2, Article 2. Administration § 554.4. Candidate Statements

#### § 554.4. Candidate Statements

(a) Each candidate for an elective Board member position may provide a written candidate statement including the candidate's name, the word "Incumbent" when the candidate is the incumbent in the position for which the election is being held, job classification, employer (or employer at retirement), years of CalPERS-covered service, and a general statement of no more than ~~200~~ 300 words. The statement must be truthful, and shall contain no obscene, vulgar, profane, libelous or defamatory matter. The statement shall not include any remarks or questions that are inherently misleading, including rhetorical remarks and questions that are inherently misleading.

(b) The statement shall be filed with the Election Coordinator at the time the candidate accepts nomination. Once filed, statements may not be changed or withdrawn except as provided herein. The final approved statement will be printed in the Board of Administration Candidate Statement Booklet for the election.

(c) Within 7 calendar days following the end of the nomination period, the Election Coordinator shall distribute all candidate statements to each candidate in the respective contest. Each candidate shall have 10 calendar days (or such longer period as the Election Coordinator may provide to all candidates) after the distribution of the candidate statements by the Election Coordinator to submit to the Election Coordinator an addendum to the candidate's statement of no more than ~~400~~ 300 words. No addenda may change the initial candidate statement, but addenda, if any, shall be in addition to the initial candidate statement. The Election Coordinator shall, within 7 calendar days after the date in which all addenda are due, provide all candidates with all candidate statements including addenda if any. The final approved addendum will be printed in the Board of Administration Candidate Statement Booklet for the election.

(d) No statement may be changed or withdrawn, except that:

(1) a candidate who withdraws from the election may withdraw his/her statement at any time prior to printing, or,

(2) a candidate statement may be modified in accordance with a determination of an arbitration conducted in accordance with subdivision (e) below.

(e) Any controversy or claim arising out of or relating to a proposed candidate's statement's compliance with the provisions of this section shall be determined by a third-party arbitrator conducting arbitration in accordance with the laws of the State of California and as provided below, and the Labor Arbitration rules of the American Arbitration Association (AAA) in effect on

November 15, 2000, to the extent the AAA rules are not in conflict with this subdivision.

(1) A written request for arbitration related to any candidate's statement must be filed with CalPERS Election Coordinator by a candidate not later than 5 working days after the Election Coordinator's mailing of candidate statements pursuant to subdivision (c) above. Upon the Election Coordinator's receipt of a request for arbitration, the Board or its delegate shall designate an independent, neutral third-party arbitrator to administer the arbitration. No board member who is a candidate for election that is the subject of the arbitration may participate in the selection of the arbitrator except as specified in subdivisions (2-6) below.

(2) A request for arbitration shall set forth the nature of the controversy or claim, a brief statement of the basis of the controversy or claim, and the remedy sought.

(3) Upon receipt of a request for arbitration under this section, the Election Coordinator shall mail a copy of the request to all candidates for the same seat and to the third-party arbitrator. Within seven days of mailing the request for arbitration by the Election Coordinator, any candidate for the seat that is the subject of the arbitration may request to participate in the arbitration by filing a written request with the Election Coordinator, which the Coordinator shall promptly forward to the third party arbitrator.

(4) The third-party arbitrator shall promptly submit simultaneously to each party requesting to participate an identical list of names of three persons chosen from its panel of arbitrators. Each party shall have seven days from the date the list is submitted in which to file an objection with the third-party arbitrator to any name, number the remaining names to indicate order of preference, and return the list to the third-party arbitrator. From among the persons for whom no objection has been filed, and in accordance with the designated order of preference, the third-party arbitrator shall invite an arbitrator to serve. If every proposed arbitrator receives an objection, or if the arbitrator selected declines or is unable to act, or if for any other reason the appointment cannot be made from the submitted lists, the third-party arbitrator shall make the appointment from among other members of the arbitrator's panel without the submission of any additional list.

(5) Any arbitration shall be held in the City of Sacramento. Any candidate for the same office may participate in the arbitration by filing notice with CalPERS. The determination of the arbitrator shall be rendered within 30 days of selection of an arbitrator and shall be final and binding on CalPERS and candidates for office.

(6) Each candidate participating in the arbitration shall bear its own expenses in connection with the preparation and presentation of his or her case at the arbitration proceedings. The fees and expenses of the arbitrator and all other expenses of the arbitration shall be borne equally by each candidate participating in the arbitration.

(f) The Election Coordinator shall distribute all deadlines and instructions related to candidate statements in writing to all candidates.

(g) Nothing in this section shall be deemed to make candidate statements or the authors thereof free or exempt from any civil or criminal action or penalty because of any statements offered for printing or distributed to voters. Information contained in the statement is the responsibility of the candidate and the California Public Employees' Retirement System accepts no responsibility for the validity of the statement or the contents thereof.

The amendments to this section adopted on March 21, 2001 shall become operative on January 16, 2002. The amendments to Section 554.4 filed August 24, 1998 shall remain in effect until that time.

NOTE: Authority cited: Section 20121, Government Code. Reference: Section 20096, Government Code.

**HISTORY:**

1. New section filed 7-2-82; effective thirtieth day thereafter (Register 82, No. 27).
2. Amendment filed 8-9-94; operative 9-8-94 (Register 94, No. 32).
3. Change without regulatory effect amending first paragraph filed 6-12-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 24).
4. Amendment of first paragraph and Note filed 8-24-98; operative 9-23-98 (Register 98, No. 35).
5. Amendment filed 11-30-2000 as an emergency; operative 11-30-2000 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 3-30-2001 or emergency language will be repealed by operation of law on the following day.
6. Change without regulatory effect correcting subsections (a) and (b) of 11-30-2000 emergency action filed 12-18-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 51).
7. Pursuant to the order of the Superior Court of California, Court of Sacramento, dated April 20, 2001, in California State Employees Association, Local 1000, SEIU, AFL-CIO, CLC v. Public Employees Retirement System, et al., No. 00CS01662, the emergency amendment filed 11-30-2000 has been invalidated and is unenforceable until adopted in full compliance with the Administrative Procedure Act. Reinstatement of section as it existed prior to 11-30-2000 emergency amendment (Register 2001, No. 22).
8. Amendments adopted by CalPERS Board 3-21-2001; submitted to OAL and filed 8-2-2001; operative 1-16-2002 (Register 2001, No. 31).